

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

PUBLIC SERVICES - Commercial Taxes Department - Gross negligence in issuance of way bills indiscriminately causing loss of revenue to Government - Disciplinary proceedings initiated against Sri A.A.P. Nageswar, formerly Commercial Tax Officer, Proddutur, Kadapa District - Charges proved - Dismissed from service - A.P. Administrative Tribunal suspended the dismissal orders and ordered to conclude the enquiry - Appointment of fresh Inquiring Authority and Presenting Officer under rule 20 (2) & (5) read with Rule 21 (1) of A.P. Civil Services (CC&A) Rules, 1991 - Orders - Issued.

REVENUE (VIGILANCE - I) DEPARTMENT

G.O.Rt.No. 1636

Dated:21 -11-2012.

Read the following :

- 1) Commissioner, CT, Hyderabad, Charge Memo No. D3/3088/96, Dated: 6.7.2000.
- 2) Enquiry Officer Report No.CCT's Enft./AC(CT)I/R.C. No.1968/D3/ 00-01, dt.05.11.2001.
- 3) From the Commissioner, CT, Hyderabad, Letter No. D3/3088 /96, Dt: 20.10.2003.
- 4) Govt. Memo No.46318/Vig.I(1)/2003-2, dt.08.12.2003.
- 5) From Sri M. Linga Reddy, Deputy Commissioner, CT, Guntur-II Division, Re-enquiry report in Rc. No. 171/2003-D2, Dt: 2.11.2004.
- 6) Commissioner, CT, Hyderabad, Ref. No.D3/3088/96, dt.14.08.2005.
- 7) Sri A.A.P. Nageswar, CTO., Representation, dt.05.10.2005.
- 8) From the Commissioner, CT, Hyderabad, Letter No. VI (D3)/ 1313/97, Dated 7.11.2006.
- 9) G.O. Ms. No.1197, Revenue (Vig.I) Deptt., dt.17.10.2008.
- 10) Interim orders of Hon'ble A.P.A.T, dt: 06.04.2010 and 15.4.2010 in OA.No. 1826/2010 filed by Sri A.A.P. Nageswar, CTO (under orders of dismissal).
- 11) G.O.Rt.No.216, Revenue (Vig. I) Department, Dated: 17.2.2011.
- 12) Orders of APAT, dt: 4.10.2012 in O.A.No. 1826/2010 filed by Sri A.A.P. Nageswar, CTO.

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O R D E R:

In the reference 1st read above, the Commissioner of Commercial Taxes, A.P., Hyderabad has framed two charges against Sri A.A.P. Nageswar, Commercial Tax Officer (Audit), Vijayawada-II Division on the allegation of issuance of way bills indiscriminately to the Dealers of Stones and Stone Slabs and Oil Dealers without verification of the way bills utilization account before issuing new way bills nor did he scrutinize or watch the returns filed by the Dealers, while he was working as Deputy Commercial Tax Officer-I, Proddutur; and as Commercial Tax Officer-I, Proddutur respectively causing huge loss of Revenue to the State exchequer and directed to submit his written statement of defence. Sri A.A.P. Nageswar, Commercial Tax Officer has submitted his

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written statement of defence, dt: 3.8.2000. After examination of the matter, the Commissioner, CT, Hyderabad has appointed the Assistant Commissioner [CT], O/o. the Commissioner, CT, Hyderabad, as the Inquiring Authority to conduct a detailed inquiry into the matter on 4.10.2000. Accordingly, the Inquiring Authority conducted the inquiry and furnished his inquiry report and held that charged officer is guilty of all the charges, vide reference 2nd read above. Upon furnishing a copy of the inquiry report, the Delinquent Officer has submitted a representation, dt: 19.3.2003 stating that the Inquiry Officer has not conducted the inquiry in accordance with rule 20 of APCS (CC&A) Rules, 1991.

2. In the reference 3rd read above, the Commissioner, CT, Hyderabad has furnished the record of inquiry and among others, recommended to the Government to impose a major penalty against Sri A.A.P. Nageswar, Commercial Tax Officer for the charges held proved in the inquiry.

3) In the reference 4th read above, Government, among others, remitted the case to the enquiry officer under rule 21 (1) of A.P.C.S (CC&A) Rules, 1991 for conducting further enquiry from the point / stage from which it is not in accordance with the provisions of Rule 20 of APCS (CC&A) Rules, 1991 and also directed therein to examine the role of sub-ordinate officers ie., ACTO / DCTO, who were concerned in the matter and hold a common enquiry.

4) Accordingly, the Commissioner of Commercial Taxes has directed the same Inquiring Authority to conduct re-enquiry. Accordingly, the Enquiry Officer has summoned Sri A.A.P.Nageswar, Commercial Tax Officer along with others. The Charged Officer appeared before the Inquiry Officer on 5.5.2004 and the Enquiry Officer has recorded his statement. The Enquiry Officer opined that Sri A.A.P.Nageswar, Commercial Tax Officer was guilty of all the charges and stated that “ my findings on the Charged Officer made in earlier Enquiry Report would still stand” and completed inquiry in respect of subordinate officers and furnished his findings on Sri A.A.P. Nageswar and his sub-ordinates. The Commissioner, CT has furnished the re-enquiry report to the Delinquent Officer on 14.8.2005 and obtained representation of the Delinquent Officer, dt: 5.10.2005 and sent to the Government for taking further action in the matter, vide reference 8th read above.

5) In the reference 9th read above, Government imposed a punishment of dismissal from service against Sri A.A.P. Nageswar, Commercial Tax Officer, after following due procedure.

6) Aggrieved by his dismissal, Sri A.A.P. Nageswar, Commercial Tax Officer has filed O.A.No. 1826/2010 before the A.P. Administrative Tribunal. The A.P. Administrative Tribunal in its interim orders, dt: 6.4.2010 have suspended the impugned G.O and directed to continue the applicant in service until further orders. Subsequently, the Hon'ble Tribunal, in its further interim orders on 15.4.2010 ie,. vide reference 10th read above; have made the following:

“ So, according to the learned GP, the Enquiry Officer has considered the statement of the applicant and other things and gave his findings. But, on a perusal of the Enquiry Officer's report dated 2.11.2004, it is stated that the charges against the accused officer are (1) that as DCTO-I, Proddutur, way bills were issued indiscriminately to stone slab dealers resulting in loss of revenue and; (2) that as CTO-II, Proddutur, the Accused Officer

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indiscriminately issued way bills to oil millers causing huge loss of revenue to the State Government and that “my findings on the above charges are contained in my inquiry report dated, 5.11.2001, therefore, this re-enquiry is restricted to the role of subordinate officers as other term of references like giving an opportunity to the accused officer and conducting a common enquiry has been met”.

In view of the above facts and circumstances, it is clear that the Enquiry Officer did not discuss about the statement recorded by him from the applicant subsequent to the matter being remanded to him for enquiry and he also did not discuss about the various points raised by the applicant in his statement after remand and he only stated that his findings on the above charges contained in his inquiry report dated 5.11.2001 holds good, therefore, the re-enquiry is restricted to the role of subordinate officers as other term of references like giving an opportunity to the accused officer and conducting a common enquiry has been met. The various points raised by the applicant in his statement have not been discussed. So, in these circumstances, the impugned G.O.Ms.No.1197, Revenue (Vig) Dept., Dt: 17.10.2008 is suspended until further orders”.

7) Government have examined the orders of A.P. Administrative Tribunal and reinstated Sri A.A.P. Nageswar, Commercial Tax Officer into service under rule 8 (4) of A.P.C.S (CC&A) Rules, 1991 and placed him under deemed suspension with effect from 17.10.2008 ie., from the date of the original order of dismissal; making him for entitlement of subsistence allowance, subject to further orders of the A.P. Administrative Tribunal in the O.A., vide reference 11 read above. Later, he was retired from service on attaining the age of superannuation on 31.8.2012.

8. In the reference 12th read above, the A.P. Administrative Tribunal, while disposing of the O.A No. 1826/2010, have directed the respondents to conclude the enquiry and pass final orders within a period of three months from the date of receipt of a copy of the orders failing which the respondents are directed to release the pensionary benefits in favour of the applicant without reference to the disciplinary proceedings pending against him.

9. Government have re-examined the entire matter and observe that the inquiry officer has given opportunity of hearing to the Charged Officer; however the points raised by the Charged Officer in his statement, dt: 5.5.2004 were not taken into account and recorded by the Enquiry Officer when such opportunity was given as has been pointed out by the Hon'ble A.P. Administrative Tribunal in its order cited above. The Enquiry Officer has merely stuck to his earlier enquiry report, dated 5.11.2001 which was earlier considered by the Government to have been vitiated because of non-adherence to the provisions of Rule 20 (7) of APCS (CC&A) Rules, 1991. Hence, Government have decided to conduct re-enquiry from the point of vitiation of the disciplinary proceedings duly keeping in mind the observations made by the A.P. Administrative Tribunal in its orders, dt: 15.4.2010 in O.A.No. 1826/2010.

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10. Accordingly the Government, in exercise of powers conferred by sub-rule (2) of rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 read with Rule 21 (1) of above said rules, hereby appoint Sri L.V. Subbanna, Deputy Commissioner, CT (I/c), Kadapa as the Inquiring Authority to re-inquire into the charges framed against the said Government Servant from the point of vitiation, as pointed out above.

11. Government also, in exercise of the powers conferred by sub-rule (5) (c) of rule 20 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, hereby appoint Sri K. Venkata Ratnam, Assistant Commissioner, CT (Audit), Kadapa as the Presenting Officer to present the case before the Inquiring Authority.

12. The Inquiring Authority shall complete his re-enquiry from the point of vitiation of the disciplinary proceedings duly keeping in mind the observations made by the Hon'ble Tribunal mentioned supra; by giving an opportunity to the Charged Officer, as per the prescribed procedure under Rule 20 of APCS (CC&A) Rules, 1991 and furnish his Report of Inquiry (in duplicate) to the Government **by 31st December, 2012** for taking further action in the matter. There shall be no deviation from the deadline set above in view of the direction of the Hon'ble A.P. Administrative Tribunal regarding completion of the re-enquiry process.

13. The Commissioner, CT, Hyderabad, shall furnish the relevant material to the Inquiring Authority and Presenting Officer and see that the enquiry is completed within the stipulated time.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ASUTOSH MISHRA
PRINCIPAL SECRETARY TO GOVERNMENT

To
Sri L.V. Subbanna, Deputy Commissioner, CT (I/c), Kadapa (w.e)
Sri K. Venkata Ratnam, Assistant Commissioner, CT (Audit), Kadapa (w.e)
Sri A.A.P. Nageswar, Commercial Tax Officer (Retd.),
D.No. 119, Swamiji Apartments,
6/2, Chandramouli Nagar, Gungtur-7.

through the Commissioner of Commercial Taxes, AP, Hyderabad.
The Commissioner of Commercial Taxes, AP, Hyderabad.

Copy to:

The Asst. Registrar, A.P. Administrative Tribunal, Hyderabad.
(w.r.t. orders dt: 4.10.2012 in OA.No. 1826/2010).
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Enclosures:

1. Copy of Commissioner, CT, Hyderabad, Charge Memo No. D3/3088/96, Dt: 6.7.2000 issued on Sri A.A.P. Nageswar, CTO.
2. Copy of Written statement of defence of Sri A.A.P. Nageswar, CTO, dated 3.8.2000.

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3. Copy of Enquiry Report of Asst. Commissioner, CT, Enf. Wing, O/o. the Commissioner, CT, Hyderabad, in RC No. 1868/D3/00-01, Dt: 5.11.2001.
4. Representation of Sri A.A.P. Nageswar, CTO, dated 19.3.2003.
5. Copy of Statement of Sri A.A.P. Nageswar, CTO dated 5.5.2004 recorded before the Deputy Commissioner, CT, Guntur (ie., Inquiry Officer during the re-enquiry);
6. Copy of Enquiry Report of the Deputy Commissioner, CT, Guntur-II Division, in Rc. No. 171/2003-D2, Dated 2.11.2004.
7. Copy of Commissioner, CT, Hyderabad, Letter No. D3/3088/96-1, Dated 14.8.2005.
8. Copy of the representation of Sri A.A.P.Nageswar, CTO, dt: 5.10.2005.
9. Copy of G.O.Ms.No.1197, Revenue (Vig. I) Dept., Dt: 17.10.2008.
10. Copy of the interim orders of A.P.A.T, dated 15.4.2010 in OA.No. 1826/2010 filed by Sri A.A.P. Nageswar, CTO.
11. Copy of G.O.Rt.No.216, Revenue (Vig. I) Dept., Dt: 17.2.2011.
12. Copy of the orders of APAT dt: 4.10.2012 in OA.No. 1826/2012 filed by Sri A.A.P. Nageswar, CTO (Retd.).

//Forwarded :: By Order //

SECTION OFFICER.

